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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20054

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

99-14

In the Matter of )  
 ) RM-9442  
Amendment of Section 73.202(b) ) MM Docket No. 99-14  
Table of Allotments )  
FM Broadcast Stations )  
Columbia Falls, Browning, Pablo MT )

To: John A. Karousos, Chief  
Allocations Branch

COUNTERPROPOSAL

The Battani Corporation submits this Counterproposal to the  
Petition filed in the referenced proceeding.

Petitioner seeks the allotment of a second FM channel to the  
community of Columbia Falls, MT. That community is already  
served by a licensed, Class C station, KKMT-FM.

The public interest would be best served by denying the  
allocation of a second local FM station to Columbia Falls in  
favor of the allocation of a "first local aural service" to the  
communities of **Browning, MT** and **Pablo, MT**.

**Browning**, which is located in **Glacier County**, is a Census  
Designated Place (1990 Census) in western Montana. Its popula-  
tion in 1990 was approximately 1,170 persons. The 1990 Census  
also determined, however, that an unincorporated area adjacent to  
Browning to the north, designated by the 1990 Census as "North  
Browning" had 1,630 residents and an unincorporated area immedi-  
ately adjoining Browning to the south, designated as "South  
Browning" had 1,748 residents in 1990. Battani Corporation  
submits, however, that the incorporated city of "Browning" is the  
appropriate "community" for FM allotment purposes and that the

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Browning metro area has approximately 3,600 residents. Browning has a city council and a mayor. It boasts its own local police department, fire department, post office, and town hall. Like other "communities" to which the FCC has allotted a "first local aural service," **Browning** has local churches, commercial shops, medical service, real estate agents and its own school system.

Petitioner has determined that channel **276C2** can be allocated to **Browning** in full compliance with the FCC's FM spacing rules and allotment policies. See Attachment. From the fully-spaced reference coordinates (see Attachment), full city-grade (70 dBu) service can be provided to the entire community.

A grant of the requested allotment would serve the public interest and meet the FCC's allotment priorities by providing a "first local aural service" to **Browning**. See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 5 FCC Rcd 7094, 7096 (1990).

**Pablo**, which is located in **Lake** County, is a Census Designated Place (1990 Census) in western Montana. Its population in 1990 was approximately 1,298 persons. **Pablo** boasts its own local fire department, post office, and town hall. Like other "communities" to which the FCC has allotted a "first local aural service," **Pablo** has local churches, commercial shops, medical clinic, and its own school system.

Petitioner has determined that channel **275C2** can be allocated to **Pablo** in full compliance with the FCC's FM spacing rules

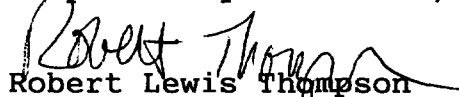
and allotment policies. See Attachment. From the fully-spaced reference coordinates (see Attachment), full city-grade (70 dBu) service can be provided to the entire community.

A grant of the requested allotment would serve the public interest and meet the FCC's allotment priorities by providing a "first local aural service" to Pablo. See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 5 FCC Rcd 7094, 7096 (1990). Upon the FCC's allotment of the channels to Browning and Pablo as requested and following the opening of appropriate filing windows, Petitioner will submit applications for the channels and, if granted, will promptly build the new facilities.

WHEREFORE, Petitioner urges that the FCC grant the Counterproposal and ultimately amend the FM Table of Allotments:

<u>Community</u>	<u>Present Allotments</u>	<u>Proposed Allotments</u>
Columbia Falls, MT	240C	276C3
Browning, MT	--	276C2
Pablo, MT	--	275C2

Respectfully submitted,

  
Robert Lewis Thompson  
**TAYLOR THIEMANN & AITKEN, L.C.**  
908 King Street, Suite 300  
Alexandria, VA 22314  
(703) 836-9400

Counsel for Battani Corporation

March 19, 1999

cc: Victor A. Michael, Petitioner  
Kathleen Scheuerle (Allocations Branch)

## ENGINEERING STATEMENT

The information and data contained within this engineering statement were prepared on behalf of Battani Corporation, in support of comments to Petition for Rule Making, MM Docket No. 99-14, RM-9442 to allot Channel 276C3 to Columbia Falls, Montana. Battani counter-proposes to amend the FM Table of Allotments, 47 C.F.R. § 73.202(b) of the Commission's Rules, by allocating Channel 276C2 to Browning, Montana, and Channel 275C2 to Pablo, Montana, in place of the Channel 276C3 proposal at Columbia Falls.

Currently, neither Browning nor Pablo has any other aural broadcast services. At a point corresponding to the following geographic coordinates the Channel 276C2 allotment can be made at Browning in compliance with the minimum distance separation requirements 47 C.F.R. § 73.207.

North Latitude: 48 degrees, 35 minutes, 16 seconds  
West Longitude: 113 degrees, 17 minutes, 38 seconds

The Channel 275C2 allotment at Pablo can be made at the following geographic coordinates.

North Latitude: 47 degrees, 28 minutes, 03 seconds  
West Longitude: 114 degrees, 22 minutes, 34 seconds

From the above-referenced geographic coordinates, Channels 276C2 and 275C2 are fully-spaced to all FCC assignments, allotments and proposals contained within the latest *FCC FM Engineering Database*, except with respect to the proposed Channel 276C3 allotment at Columbia Falls. All distances were computed by the methods outlined in § 73.208(c) of the Commission's Rules and were rounded to the nearest kilometer in accordance with § 73.208(c)(8).

The results of this study demonstrate that the FM Table of Allotments in § 73.202(b) of the Commission's Rules may be amended in technical compliance with all applicable spacing rules. Therefore, Battani Corporation, respectfully requests the following changes to the Table:

### PRESENT

CITY	CHANNEL
Columbia Falls, Montana	240C
Browning, Montana	----
Pablo, Montana	----

### PROPOSED

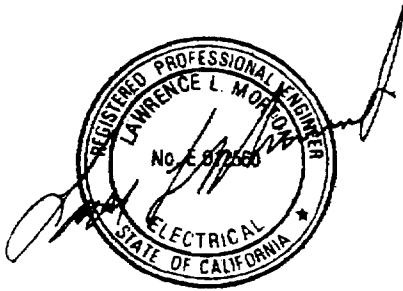
CITY	CHANNEL
Columbia Falls, Montana	240C, 276C3
Browning, Montana	----
Pablo, Montana	----

**Engineering Statement  
March 1999**

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**COUNTERPROPOSAL**

<b>CITY</b>	<b>CHANNEL</b>
<b>Columbia Falls, Montana</b>	<b>240C</b>
<b>Browning, Montana</b>	<b>276C2</b>
<b>Pablo, Montana</b>	<b>275C2</b>



**Lawrence L. Morton, P.E.  
Consulting Engineer to the Petitioner  
March 18, 1999**

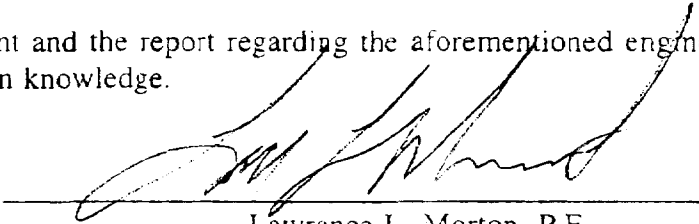
## AFFIDAVIT

State of California                     )  
  )   ss:  
County of Los Angeles                )

Lawrence L. Morton, being first duly sworn upon oath, deposes and says:

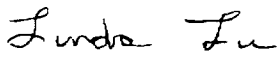
- That he is a qualified engineer,
- That he is a Registered Professional Engineer in the State of California,
- That he is a member of the Association of Federal Communications Consulting Engineers,
- That his qualifications are a matter of record with the Federal Communications Commission,
- That he has prepared many broadcast applications and engineering exhibits that have been filed with and granted by the Federal Communications Commission,
- That he has carried out such engineering work and that the results thereof are attached hereto and form part of this affidavit, and
- That the foregoing statement and the report regarding the aforementioned engineering work are true and correct of his own knowledge.

Date: March 18, 1998

  
\_\_\_\_\_  
Lawrence L. Morton, P.E.

On March 18, 1998, before me, Linda Lu, a Notary Public, in and for the State of California, personally appeared Lawrence L. Morton known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

My Commission expires 11/30/99

  
\_\_\_\_\_  
Notary Public

